

### **REMARKS/ARGUMENTS**

This Amendment is in response to the Office Action mailed July 24, 2008.

Claims 1-19 were pending in this application. This Amendment amends claims 1, 5, 10, 12, and 14-18. Claims 4, 6, 11, and 13 are canceled. After entry of this amendment, claims 1-3, 5, 7-10, 12, 14-19 are pending. Reconsideration of the rejected claims is respectfully requested.

#### **I. Interview**

Applicants thank the Examiner for granting an interview on October 23 and 24, 2008. Examiner noted that the claims would be allowable if the features of claims 4 and 6 were included in the independent claims. Applicants thank the Examiner for his suggestions. Examiner agreed that adding claim 4 to claim 1 as a wherein clause is acceptable.

#### **II. Rejection under §101**

Claims 1-19 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, claims 1-19 are rejected based on Supreme Court precedent, and recent Federal Court decisions, which states that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. (Office Action, p. 2).

With regard to claims 10, 12, and 14-17, without conceding the merits of the rejection as applied to the original claims, Applicants respectfully submit that the amended claims overcome the rejection.

With regard to claims 1-3, 5, 7-9, and 18-19, Applicants respectfully submit that the claims in fact recite statutory subject matter. For example, amended claim 1, recites that the steps of claim 1 are performed by a computer. It is submitted that an auction method comprising steps that are performed by a computer constitutes statutory subject matter. Applicants therefore respectfully request that the rejection with respect to these claims be withdrawn.

III. Rejection under 35 USC § 103, Alaia in view of Langseth, Parsons and Wang

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Alaia et al (US Publication 20020046148) (hereinafter "Alaia") in view of Langseth et al. (US Patent 6,671,715) (hereinafter "Langseth"), Parsons et al. (US Patent 6,871,214) (hereinafter "Parsons") and Wang et al. (US Patent 6,018,343) (hereinafter "Wang"). Claim 1 is allowable as Alaia, Langseth, Parsons, and Wang either alone or in any combination, do not teach or suggest each and every element of claim 1. For example, claim 1 recites in part:

receiving user selectable update configuration information from remote bidders via a distributed computer network, the update configuration information including a user selectable time interval for receiving bid status updates, wherein the time interval is selected by using a graphical user interface of a browser;  
adjusting the time interval for the update configuration information dynamically as the auction is conducted;  
conducting an auction wherein bid information received from the remote bidders is compared to determine a bid status and wherein the bid status is used to determine the bid status updates for the remote bidders;  
disseminating the bid status updates to the remote bidders via the distributed computer network in accordance with the update configuration information; and  
designating an auction winner at the conclusion of the auction in accordance with a most competitive bid of the bid status. (emphasis added).

As recited above, claim 1 specifically recites, "update configuration information including a user selectable time interval for receiving bid status updates," and "adjusting the time interval for the update configuration information." Applicants submit that at least this feature recited in claim 1 is not taught or suggested by Alaia.

Examiner suggests that Alaia's description of extending a time interval between lot closings discloses adjusting the time interval for receiving bid status updates. (Office Action, p. 5). Applicants respectfully disagree.

Alaia describes a method for controlling an auction's closing time. (Alaia, Abstract). Specifically, Alaia describes

Information regarding the Auction that can be displayed by the client application is illustrated in FIGS. 6A-6D...The "Market Bid" column indicates the current lowest or best bid for the lot. (Alaia, [0031]).

Flexible market closing extensions is implemented in the auction system by storing a parameter in storage 22B that specifies the minimum interval between lot closings (see FIG. 4). This parameter is read from storage 22B into memory 22A for use by the server component of the application software when an Auction is loaded. When the closing time for a given lot is adjusted, the closing time for the immediately subsequent lot is evaluated to determine whether the time interval between the adjusted closing time and

the subsequent lot's closing time is smaller than the minimum interval between lot closings specified. (Alaia, [0100]). (emphasis added).

These multiple parameters specify the individual minimum intervals between the closing times of the multiple lots. The individual minimum intervals can be based upon the characteristics of the lot itself or various indicia reflective of the market activity for the lot. The individual minimum intervals can therefore be dynamic in nature. (Alaia, [0101]). (emphasis added).

Applicants submit that Alaia does not teach “user selectable time interval for receiving bid status updates.” Alaia describes that client applications may display information about the lots and that the information changes during the course of bidding. (Alaia, [0032]). Even if, for purposes of argument, the information about the lots is read as bid status updates, Alaia makes no mention or suggestion of allowing a user to select a time interval for which the information about the lots is received by the client applications. Alaia only mentions that the time period for which a lot in an auction is open can be extended. An opening time period of an auction is not the same as a time interval for receiving a bid status update. As such, Alaia does not teach or suggest “user selectable time interval for receiving bid status updates.” Under similar rationale, Alaia also fails to teach or suggest “adjusting the time interval for the update configuration information.” Moreover, the time intervals for the lot openings are not selected by the user.

Langseth does not make up for the deficiencies in Alaia. Examiner suggests that Langseth’s description of providing alerts based on user preferences teaches receiving timely financial service content. (Office Action, p. 4). Furthermore, Examiner asserts that stocks are auctions that are bided by traders in an exchange. Applicants respectfully disagree.

Langseth describes a method for delivering personalized and timely information to a subscriber of a financial service. (Langseth, Abstract). Specifically, Langseth describes

when subscribers sign up for services on the finance channel, the following information may be input: frequency of updates, sectors of interest, currency of interest, stocks in portfolio, news interests, output methodology among other personalization options. (Langseth, col. 11, lines 25-30). (emphasis added).

Applicants submit that Langseth does not teach “user selectable time interval for receiving bid status updates.” Langseth describes that users can choose the frequency of updates for stocks in the user’s portfolio, sectors of interest, an currency of interest. Even if, for purposes of argument, offers for purchasing stocks are indeed similar to a bidding scheme, Langseth does not describe providing information as to the status of the user’s offer to purchase the stocks. At

most, Langseth describes the frequency at which an alert of a stock price of a stock in the subscriber's portfolio is sent to the subscriber. Stock price alerts do not amount to teaching or suggesting bid status updates, and setting a frequency of an alert does not amount to teaching or suggesting "user selectable time interval for receiving bid status updates." Under similar rationale, Langseth also fails to teach or suggest "adjusting the time interval for the update configuration information."

Parsons does not make up for the deficiencies in Alaia and Langseth. Examiner suggests that Parsons discloses a time interval for receiving alerts which are configured by the user. (Office Action, p. 4). Applicants respectfully disagree.

Parsons describes that alert messages can be sent to a user based on the user's delivery preferences. (Parsons, col. 6 line 18-col. 8, line 2). Parsons also describes

if the message is a new message, it is added to the user's list. If the message has been deleted or read, the message is removed from the list. Processing continues to block 310, where it is determined whether it is an appropriate time to send an alert to the user. For example, the system may be pre-configured or dynamically configured by the user to only send messages at certain time intervals (e.g. 15 minutes), so that the user will not be overwhelmed by alerts. (Parsons, col. 9, lines 38-43). (emphasis added).

An alert message is prepared. In one example of the invention, the message to be displayed on the user's WAP-enabled device takes the form of "e-M (3e, 2v\*, 1f, 2t, 3c, 1m) [John Smith]." This notation indicates that the user's list in store 206 indicates that the user has received 3 emails, 2 voice mails, 1 fax, 2 text messages, 3 CRM events and 1 missed telephone call that are of interest to the user (perhaps only those that have not yet been read or acknowledged by the user). (Parsons, col. 9, lines 47-54). (emphasis added).

Applicants submit that Parsons does not teach "user selectable time interval for receiving bid status updates." Parsons describes that users can choose the frequency of alerts for a list of messages. Under Parsons' system, an alert can be sent every 15 minutes (as determined by the user) for new messages that have been received during that time frame. However, alerts are not equivalent to bid status updates, and setting a frequency of an alert does not amount to teaching or suggesting "user selectable time interval for receiving bid status updates." Under similar rationale, Parsons also fails to teach or suggest "adjusting the time interval for the update configuration information."

Wang does not make up for the deficiencies in Alaia, Langseth, and Parsons. Examiner asserts that Wang discloses a user-selectable update and a user selectable time. (Office Action, p. 4). Applicants respectfully disagree.

Wang describes a web-based client side calendar event scheduling system.

(Wang, Abstract). Specifically, Wang describes

a calendar event containing a list of actions such as mail alert, beep alert, or pop-up alert. In general, actions describe what the user wants the Web Calendar to do when the time of the scheduled event arrives. (Wang, col. 6, lines 63-65). (emphasis added).

Create a schedule item for a certain date. \* @ date - the date when the event is scheduled. (Wang, col. 7, line 32).

Applicants submit that Wang does not teach “user selectable time interval for receiving bid status updates.” Wang describes that users can create a schedule item for an event by setting the date of the event and selecting an action to be performed (such as a mail alert, beep alert, etc.) when the time of the scheduled event arrives. Through the user interface of Wang, the user can set the event date/time and the type of alert. Although Wang describes that the alert time/date can be set by the user, there is no mention or suggestion of a time interval. Furthermore, a scheduled event is not equivalent to a bid status update. As such, Alaia does not teach or suggest “user selectable time interval for receiving bid status updates.” Under similar rationale, Alaia also fails to teach or suggest “adjusting the time interval for the update configuration information.”

Thus, Wang cannot render claim 1 obvious, either alone or in any combination with Alaia, Langseth, and Parsons. As claim 1 is allowable, dependent claims 2-3, 5, and 7-9 are also patentable for at least the same rationale. Additionally, even if the references were combined for sake of argument the result would not arrive at the invention recited in Applicants' claim 1.

Applicants submit that independent claims 10 and 18 also recite features that are not taught or suggested by Alaia, Langseth, Parsons, and Wang and should be allowable for at least the same rationale as discussed with respect to claim 1. Claims 12, and 14-17 depend from independent claim 10 and thus derive patentability at least therefrom. Claim 19 depends from claim 18 and thus derive patentability at least therefrom. Applicants therefore respectfully request that the rejection with respect to the pending claims be withdrawn.

IV. Amendment to the Claims

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,  
/Naya M. Chatterjee-Marathe/

Naya M. Chatterjee-Marathe  
Reg. No. 54,680

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 415-576-0300  
Attachments  
NMC:pas